

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
COMMERCIAL DIVISION
AT DAR ES SALAAM

MISC. COMMERCIAL APPLICATION NO. 20609 OF 2025
(Arising from Commercial Case No.17874 of 2024)

JOSEPH OTIENO WASONGA.....	1ST APPLICANT
ANNA WANDE JOSEPH @ ANNA WANDE WASONGA.....	2ND APPLICANT
VERSUS	
STANBIC BANK TANZANIA LIMITED.....	1st RESPONDENT
LOCUS DEBT MANAGEMENT LIMITED.....	2ND RESPONDENT
KYEM GENERAL SUPPLIES LIMITED.....	3RD RESPONDENT

RULING

March 20th, 2026
April 10th, 2026

Morris, J

In this matter the applicants pray that: this Court be pleased to issue an order enjoining the respondents, their agents, workmen and whoever is acting under their instruction to *maintain status quo ante* in respect of their property on Plot No. 8 Block B, Mikocheni Area, Dar es Salaam under Certificate of Title No. 23736 (**the suit premises**), pending hearing and determination of Commercial Case No. 17874 of 2025 (**the suit**); costs of this application be borne by the respondents; and any other orders as the



Court deems just and fit to grant. The application is preferred by a chamber summons supported with a joint affidavit of the applicants. On the other side, the application is opposed by the respondents via their respective counter affidavits.

As per the parties' affidavits mentioned above, the applicants are husband and wife. Further, they are the plaintiffs in the suit as against the respondents. Sometimes between 2014 and 2017 the applicants obtained loan facilities from the first respondent. Security for the said loan was mortgage over the suit premises which is the applicants' residence. Later on, allegedly the applicants failed to service the loan. As a result, the suit premises were sold to the third respondent by the second respondent under the instructions of the first respondent.

According to the applicants, the foregoing disposition was conducted without notice in their favour. As such, the applicants instituted the suit challenging the said sale in the sense that it was unlawful. Further, the applicants applied for temporary injunction seeking orders of this Court to restrain the respondents to evict them from the suit premises. However, the said application was not granted because there was no proof of imminent

danger to evict the applicants. Nevertheless, in 2025 the applicants were *inter alia*, evicted from the suit premises by the second and third respondents. Thus, the applicants preferred the instant application for the aforementioned reliefs. But the respondents have disputed this application on the ground that, there was no court order restraining them from evicting the applicants.

Hearing of this application was by written submissions. The parties were under representation of learned counsel. The applicants were represented by Mr. Joseph Makandegé; the first and second respondents were represented by Mr. Oscar Epaphra Msechu; and the third respondent was represented by Mr. Musa Anyitike Roma. The respective submissions were filed according to the Court's order.

The applicants' advocated submitted that an order for *maintenance of status quo ante* is a discretionary remedy by the Court grantable in the pendency of legitimate legal proceeding or *bonafide* contest between the parties. On this regard, reference was made to the case of ***T.A. Kaare v General Manager Mara Cooperative Union (1984) Ltd.*** [1987] TLR 17. Thus, he maintained that there is the pending suit before this Court with

substantial questions touching the said eviction. Therefore, he prayed that this application should be granted with costs.

On the other hand, the first and second respondents' counsel submitted that since the application for injunction was dismissed, then the applicants were lawfully removed from the suit premises. To him, by virtue of the dismissal of the application for injunction, there was no subsisting order restraining the respondents from effecting the subject eviction. Hence, he prayed for dismissal of this application with costs.

On his part, the counsel for the third respondent contended that, the instant application is devoid of merits and abuse of court process. To him, in evicting the applicants from the suit premises, the third respondent merely exercised her right as the bonafide purchaser thereto. Conclusively, the subject Counsel also prayed for dismissal of this application with costs.

In rejoinder, the counsel for the applicants substantially reiterated his submissions in chief. Additionally, he argued that the present application is not similar to the previous application for injunction.

At this juncture, the issue for determination is whether this application has merits. As shown hereinabove, it is undisputed that the suit premises



have been sold to the third respondent by the second respondent acting under instructions of the first counterpart. Further, it is common knowledge that, following the said sale of the suit premises; the applicants instituted the suit challenging propriety thereto. The suit is pending before this Court. Likewise, the parties are at congruence regarding the failure of applicant's application for injunction. Moreover, in the pendency of the suit, the respondents have evicted the applicants from the suit premises.

It is trite law that, an order of *status quo ante* is grantable where there is a serious question pending for trial. See for instance, ***Dhirajlal Wauil Ladwa & Another vs Jitesh Jayantilal Ladwa & Another***, Civil Application No. 1509 of 2025 [2026] TZCA 22 and, ***T.A. Kaare's case*** (*supra*). Herein, the suit by the applicants is pending before this Court challenging the legality of the sale of suit premises to the third respondent. On the other hand, the respondents have maintained that, the applicants are not owners of the suit premises but the same is owned by the third respondent as the bonafide purchaser.

I find that, the foregoing are serious questions pending for trial in the suit. On that regard I also take note that, the eviction has nexus to the said



sale the subject of the pending suit. Under the circumstances, I find merits in this application.

The above finding notwithstanding, before I finalise, I also find that the stance taken by the respondents associating this application with the previous application for injunctive reliefs without substance. This is because while the application for injunction was preferred prior to impugned eviction; the instant application was filed following the undisputed eviction of the applicants from the suit premises. Hence, as rightly stated by the applicants, though correlated; these are dissimilar proceedings. As such, the issue raised is answered positively. Nevertheless, I take judicial notice that part of the reliefs sought in the present application were allowed through Miscellaneous Commercial Application No. 20609 of 2025 and execution thereof vide Miscellaneous Commercial Application No. 258861 of 2025 between the same parties. Consequently, the application is partly granted.

For avoidance of doubt, the respondents, their agents, workmen and whoever is acting under their instruction are hereby ordered to maintain *status quo ante* (restoring the state of affairs prior to this application) in respect of the applicants' premises situate on Plot No. 8 Block B, Mikocheni



Area, Kinondoni Municipality, Dar es Salaam (Certificate of Title No. 23736), pending hearing and final determination of Commercial Case No. 17874 of 2024. Given the nature of these proceedings and the pending matters between the parties herein, I order each party to bear own costs.

It is so ordered.



C.K.K. Morris

Judge

April 10th, 2026